

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY, *et. al.*,

Plaintiffs,

v.

Civil No. 00-71544

GREATDOMAINS.COM, INC., *et. al.*,

Hon. Robert H. Cleland

Defendants.

KATHLEEN A. LANG (P34695)
Dickinson Wright PLLC
Attorneys for Plaintiff
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500

Co-counsel
GREGORY D. PHILLIPS
SCOTT R. RYTHER
Howard, Phillips & Andersen
560 East 200 South, Suite 300
Salt Lake City, Utah 84102
(801) 366-7471

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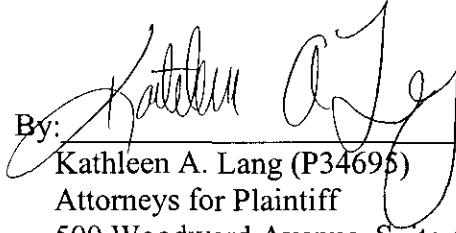
PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT

Pursuant to Rule 15(a) of the *Federal Rules of Civil Procedure*, Plaintiffs Ford Motor Company, Jaguar Cars Limited, Aston Martin Lagonda Limited, and Volvo Trademark Holding AB (collectively "Plaintiffs") respectfully move this Court for an Order granting Plaintiffs leave to file their Verified Amended Complaint in the form attached hereto as Exhibit "A." In the Verified Amended Complaint, Plaintiffs assert the

same causes of action as are contained in Plaintiffs' original Complaint, but simply add a verification.

This Motion is supported by the Memorandum in Support filed concurrently herewith.

DICKINSON WRIGHT PLLC

By: 
Kathleen A. Lang (P34695)
Attorneys for Plaintiff
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500

Co-Counsel
Gregory D. Phillips
Scott R. Ryther
HOWARD, PHILLIPS & ANDERSEN
560 E. 200 South, Suite 300
Salt Lake City, Utah 84102
801-366-7471

DATED: February 22, 2002

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560 East 200 South, Suite 300
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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO AMEND COMPLAINT**

ISSUES PRESENTED

INDEX OF CONTROLLING AUTHORITIES

Cases

<i>Foman v. Davis</i> , 371 U.S. 178 (1962)	3
<i>Gabrielson v. Montgomery Ward & Co.</i> , 785 F.2d 762 (9 th Cir. 1986).....	2
<i>Teff v. Seward</i> , 689 F.2d 637 (6 th Cir. 1982)	2

Other

6 Wright, Miller & Kane, <i>Federal Practice and Procedure: Civil</i> 2d § 1484	2
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Plaintiffs Ford Motor Company, Jaguar Cars Limited, Aston Martin Lagonda Limited, and Volvo Trademark Holding AB (collectively “Plaintiffs”) respectfully submit this Memorandum in support of their “Motion For Leave To Amend Complaint,” which has been filed concurrently.

I. INTRODUCTION

This lawsuit involves Plaintiffs’ claims against numerous registrants of Internet domain names that infringe, dilute, and misappropriate Plaintiffs’ famous trademarks. In their original Complaint, Plaintiffs did not name as *in rem* defendants any particular Internet domain names, choosing instead to seek relief, wherever possible, against the registrants of the infringing Internet domain names (the “Registrant Defendants”). However, as this litigation progressed, it has became clear that a number of the Registrant Defendants cannot be located for service of process or, in some cases, are likely not subject to the personal jurisdiction of this Court. Accordingly, as indicated at the status conference conducted on February 11, 2002, Plaintiffs will move for a transfer of venue with respect to those Registrant Defendants that cannot be located and/or are likely not subject to this Court’s personal jurisdiction. In preparation for the eventual likelihood that Plaintiffs will seek to proceed *in rem* against a number of Internet domain defendants (to be added with leave of the court after a transfer of venue), Plaintiffs seek to amend their complaint by adding the verification as indicated.

A. LEAVE TO FILE AMENDED COMPLAINTS “SHALL BE FREELY GIVEN.”

Rule 15(a) provides that leave to amend “shall be freely given when justice so requires.” *Accord Tefft v. Seward*, 689 F.2d 637, 639 (6th Cir. 1982). Indeed, this basic principle has been reinforced by innumerable judicial pronouncements and courts generally look favorably on requests to amend. *See* 6 Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 1484. “The Supreme Court has instructed the lower federal courts to heed carefully the command of Rule 15(a),

F[ed]. R. Civ. P., by freely granting leave to amend when justice so requires." *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 765 (9th Cir. 1986). *See Foman v. Davis*, 371 U.S. 178 (1962).

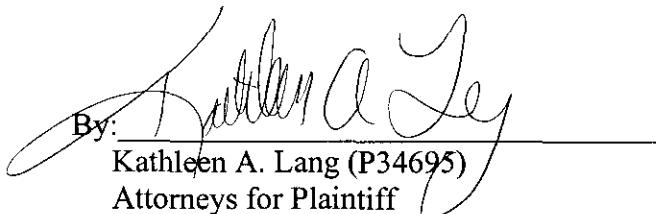
B. NO DEFENDANT IN THIS CASE WOULD HAVE A LEGITIMATE OBJECTION TO THE AMENDEDMENT SOUGHT BY PLAINTIFFS.

Defendants can have no legitimate objection to Plaintiffs seeking to amend the Complaint by adding a verification. No new claims will be added by this amendment and no party can claim to have been prejudiced by the amendment.

II. CONCLUSION

For the reasons set forth above, this Court should grant Plaintiffs leave to file their Verified Amended Complaint.

DICKINSON WRIGHT PLLC


By: _____
Kathleen A. Lang (P34695)
Attorneys for Plaintiff
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500

Co-Counsel
Gregory D. Phillips
Scott R. Ryther
HOWARD, PHILLIPS & ANDERSEN
560 E. 200 South, Suite 300
Salt Lake City, Utah 84102
(801) 366-7471

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Dickinson Wright PLLC
Attorneys for Plaintiff
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
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GREGORY D. PHILLIPS
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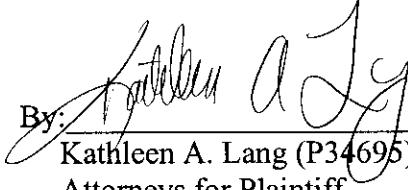
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NOTICE OF HEARING

PLEASE TAKE NOTICE that Plaintiffs' Motion For Leave to Amend Complaint will be brought on for hearing before the Hon. Robert H. Cleland in his courtroom located at 231 W.

Lafayette Boulevard, Room 707, Detroit, Michigan, 48226 on a date and time to be set by the Court.

DICKINSON WRIGHT PLLC

By: 

Kathleen A. Lang (P34695)

Attorneys for Plaintiff

500 Woodward Avenue, Suite 4000

Detroit, Michigan 48226

(313) 223-3500

Co-Counsel

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HOWARD, PHILLIPS & ANDERSEN

560 E. 200 South, Suite 300

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801-366-7471

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses, as disclosed on the

pleading February 22, 2002

By:

Via Mail

FAX

Hand Delivered

Overnight Courier

Federal Express

Other:

I declare under penalty of perjury that the statement above is true to the best of my information, knowledge and belief.

Signature Kathleen A. Lang

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

SEE CASE FILE FOR
ADDITIONAL
DOCUMENTS OR PAGES
THAT WERE NOT
SCANNED